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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/848,812	05/04/2001	Mitchell S. Askenas	1436/159	7911

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BROMBERG & SUNSTEIN LLP  
125 SUMMER STREET  
BOSTON, MA 02110-1618

EXAMINER

LAYE, JADE O

ART UNIT PAPER NUMBER

2623

DATE MAILED: 05/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/848,812

Applicant(s)

ASKENAS ET AL.

Examiner

Jade O. Laye

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/3/06</u> | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

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### *Continued Examination Under 37 CFR 1.114*

I. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/21/06 has been entered. Accordingly, the objections applied in the previous Final Action are hereby withdrawn.

### *Response to Arguments*

II. Applicant's arguments filed 2/21/06 have been fully considered but are unpersuasive.

Applicant argues that Kunkel fails to provide a web page channel to a plurality of subscriber televisions. Applicant goes on to argue that "...there is no suggestion that the individual's interaction with the interactive system will provide programming to other subscribers." (Appl. Response, Pg. 13). The Examiner disagrees and will provide his reasoning below.

Kunkel does provide a web page channel to a plurality of subscriber televisions. At Column 1 Ln. 61-Column 3 Ln. 18, Kunkel teaches how his system allows any subscriber to select any channel on which to receive web content. These "web page channels" can be requested by any subscriber desiring to view content related to his or her tuned channel. Thus, each subscriber can receive a web page channel.

Yet, the Examiner does agree Kunkel does not appear to suggest a single subscriber's interaction with the system will provide programming to other subscribers. However, Applicant's claims are not tailored to require such an interpretation either. Applicant's claims require the web content to be sent via a television channel that can be separately selected by any of the subscribers. This requirement can be read any number of ways, however the Examiner will discuss only two: (1) a single web channel is sent, wherein a plurality of subscribers can view the single channel simultaneously (i.e., just as a broadcast television channel), or (2) each user can individually request the web content via a channel (i.e., just as with video on demand). Although Applicant appears to argue the first interpretation, it would be reasonable to argue either. The Examiner opines that Kunkel is parallel with the second interpretation because each user is allowed to "separately select" any channel and receive web content—just as in a video on demand environment.

The Examiner understands what Applicant is attempting to convey with his claim language, however the claims, as amended, are not sufficiently tailored to require such a narrow interpretation. The Examiner would suggest Applicant include some language claiming a "single web channel," which can be "simultaneously" viewed by a plurality of subscribers. This would appear to read around Kunkel, thus overcoming the present rejection. (*however, the Examiner reserves the right to reconsider Kunkel once any amendments are made*).

#### ***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

III. Claims 1, 6, 10, 14, 17, 29, and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by *Kunkel et al.* (US Pat. No. 5,961,603).

As to Claim 1, *Kunkel* discloses a web content server located at the headend which includes a browser, image capture module, and an image compressor. The web pages are delivered via a bi-directional communication link containing a plurality of channels. Regarding the amended portions of Claim 1, the Examiner incorporates the “Response to Arguments” discussion. (Abstract; Col. 1, Ln. 13-22; Col. 1, Ln. 43-Col. 2, Ln. 8; & Col. 2, Ln. 41-Col. 3, Ln. 18; Col. 7, Ln. 4-39; Col. 12, Ln. 63-col. 13, Ln. 28). Accordingly, *Kunkel et al* anticipate each and every limitation of claim 1.

Claims 10 and 17 correspond to Claim 1. Thus, each is analyzed and rejected as previously discussed.

As to Claim 6, *Kunkel* further discusses the use of a multiplexer, which multiplexes images onto digital channels. (Col. 4, Ln. 23-30; Col. 5, Ln. 27-43; Col. 9, Ln. 8-16). Accordingly, *Kunkel et al* anticipate each and every limitation of claim 6.

Claim 14 corresponds to Claim 6. Thus, each is analyzed and rejected as previously discussed.

Claim 30 is encompassed by Claim 6. (Col. 7, Ln. 40-58 disclose a modulator). Thus, each is analyzed and rejected as previously discussed.

The limitations of Claim 29 are encompassed by those of Claims 1 and 6. Thus, it is analyzed and rejected as discussed therein.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

IV. Claims 2, 3, 5, 7, 8, 11, 12, 15, 16, 18, 19, 21-25, 31, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Kunkel et al* in view of *Bates et al*. (US Pat. No. 5,907,681).

Claim 2 recites the television headend of claim 1, and limitations too numerous to recite herein. (please refer to claim sheet). As discussed above, *Kunkel* anticipates each and every limitation of claim 1, and further discloses the use of channel maps and associated URL information (i.e., set up records), which allow the system to deliver (i.e., generate) the web content. (contained in cited portions used to reject claim 1). But, *Kunkel* fails to disclose the use of a reload interval. However, within the same field of endeavor, *Bates et al* disclose a similar system which teaches the use of a reload interval used to define the corresponding interval for reloading a webpage. (Abstract; Col. 1, Ln. 8-29, & Ln. 54-Col. 2, Ln. 14; Col. 3, Ln. 50-Col. 4, Ln. 15). The reload interval can be specified (i.e., controlled) by the user, provider, or be dependent upon the specified URL update schedule. Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant's invention to combine the systems of *Kunkel* and *Bates*, thereby providing a technology that enables automated, flexible, and efficient refreshing of internet webpages.

Claims 11, 18, and 31 correspond to Claim 2. Thus, each is analyzed and rejected as previously discussed.

The limitations of Claim 3 are encompassed within the limitations of Claims 1 and 2. Thus, it is analyzed and rejected as discussed therein.

Claims 12 and 19 correspond to Claim 3. Thus each is analyzed and rejected as previously discussed.

Claim 5 recites the headend of Claim 1, further comprising limitations too numerous to recite herein. (refer to claim sheet). As discussed above, *Kunkel* anticipates each and every limitation of Claim 1, and therefore must inherently contain a “script” which corresponds to the upload interval. But, *Kunkel* does not specifically discuss the use of a “frame” portion. However, *Bates* discusses a number of well-known web browsers such as Netscape Navigator® and Internet Explorer®, which both contain “frame” browsers. (Col. 1, Ln. 21-29). Accordingly, the combined systems of *Kunkel* and *Bates* disclose all limitations of Claim 5.

Claim 7 recites the headend of Claim 1, further comprising limitations too numerous to recite herein. Claim 7 is a combination of limitations recited in Claims 1 and 2, further adding a limitation to a database and a graphical user interface. In addition to the cited portions used to reject Claims 1 and 2, *Kunkel* further discloses the use of a headend database (Col. 3, Ln. 10), but fails to specifically recite the use of a graphical user interface. However, *Bates* teaches the use of such an interface, which allows the user to update reload interval. (Col. 1, Ln. 22-29). Accordingly, the combined systems of *Kunkel* and *Bates* disclose all limitations of Claim 7.

Claims 15, 22, 24, 25, and 32 correspond to Claim 7. Thus, each is analyzed and rejected as previously discussed.

The limitations of Claim 8 are encompassed within the limitations of Claim 7. Thus, it is analyzed and rejected as previously discussed.

Claims 16 and 23 correspond to Claim 8. Thus, it is analyzed and rejected as previously discussed.

Claim 21 mirrors the language of Claim 6. Thus, it is analyzed and rejected as discussed therein.

V. Claims 4, 9, 13, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Kunkel et al* in view of *Bates et al* as applied to claim 2 above, and further in view of *Seazholtz et al*. (US Pat. No. 5,812,786).

Claim 4 recites the headend of Claim 1, and limitations too numerous to recite herein. (please refer to claim sheet). The limitations of Claim 4 are combinations of limitations recited in Claims 1 and 2, further adding a limitation addressed to a channel bit rate parameter. As discussed above, the combined systems of *Kunkel* and *Bates* disclose all limitations of claims 1 and 2, but fail to disclose the use of a channel bitrate parameter. However, within the same field of endeavor, *Seazholtz et al* disclose a similar system which allows for the control of a variable data transmission rate (i.e., bit rate). (Abstract; Col. 2, Ln. 62-64; Col. 11, Ln. 10-51; Col. 14, Ln. 22-Col. 15, Ln. 11). Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant's invention to combine the systems of *Kunkel*, *Bates*, and *Seazholtz* in order to provide a system which supports a variety of transmission rates and services.

Applicant argues that the *Seazholtz* reference does not teach or suggest the Applicant's "novel" setup records. (Applicant's Response, Pg. 23). Applicant goes on to argue *Seazholtz* discloses subscriber control of ADSL modem line rates, which, in Applicant's opinion, is not a



channel bit rate parameter. The Examiner does not agree. At Column 2, Ln. 62-64, *Seazholtz* explicitly states “[a]nother object is to either automatically control bit rate or mode by the CO or selectively control bit rate or mode by the subscriber.” Accordingly, the Examiner maintains the application of the *Seazholtz* reference.

Claims 13 and 20 correspond to Claim 4. Thus, each is analyzed and rejected as previously discussed.

Claim 9 recites limitations which are combinations of limitations recited in Claims 4 and 7. Thus, it is analyzed and rejected as discussed therein.

VI. Claims 26-28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kunkel in view of Leak et al. (US Pat. No. 6,182,072).

The limitations of Claim 26 are encompassed by those of Claim 1. In addition, Claim 1 further recites the system can display a slide show of web pages. But, Kunkel fails to disclose such a structure. However, within the same field of endeavor, Leak et al disclose a similar WebTV® system which allows a user to view a slide show of web pages. (Astract; Col. 6, Ln. 25-36; Col. 7, Ln. 44-53). Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant’s invention to combine the systems of Kunkel and Leak, thus providing a user with a number of web pages without having to specifically locate or request those pages.

The limitations of Claim 27 are encompassed within those of Claim 2. For the sake of a simpler rejection, the Examiner takes Official Notice that, at the time of Applicant’s invention, the limitations of Claim 27 were notoriously well-known in this art, as evidenced by *Bates et al*,

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*US Pat. No. 5,907,681.* (i.e., the rejection of Claim 2 is incorporated here). Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant's invention to modify the combined systems of Kunkel and Leak, thereby providing a technology that enables automated, flexible, and efficient refreshing of webpages.

The limitations of Claim 28 are encompassed within those of Claims 24 and 25. For the sake of a simpler rejection, the Examiner takes Official Notice that, at the time of Applicant's invention, the limitations of Claim 28 were notoriously well-known in this art, as evidenced by Bates et al. (i.e., the rejection of Claims 24 and 25 are incorporated here). Accordingly, the modified systems of Kunkel and Leak disclose all limitations of Claim 28.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jade O. Laye whose telephone number is (571) 272-7303. The examiner can normally be reached on Mon. 7:30am-4, Tues. 7:30-2, W-Fri. 7:30-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR


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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner: Jade O. Laye

Initials: JK

April 22, 2006.

  
CHRIS KELLEY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600